

REMARKS/ARGUMENTS

I. INTRODUCTION

Applicants have amended claims 3, 7, 11, 13, 16, and 17; canceled claim 12; and added claim 32. Accordingly, claims 1-11 and 13-32 are now pending in this application. Applicants appreciate the Office's indication that claims 27-31 have been allowed. In light of the amendments made above and the arguments to appear below, Applicants respectfully request reconsideration of the rejected claims in the application.

II. AMENDMENTS TO THE CLAIMS

Claims 3 and 7 have been amended to better clarify the limitations of Applicants' invention. Applicants respectfully submit that no new matter has been added.

Claim 11 has been amended to add the limitation of "selecting a form for a control signal". Applicants respectfully submit that claim 11 has been re-written to include this limitation from claim 12, and that claim 12 has been cancelled. Additionally, Applicants respectfully submit that support for this limitation can be found throughout the specification (e.g., page 7, lines 27-31) and drawings, and accordingly, no new matter has been added.

Claim 17 has been amended to better clarify the limitations of Applicants' invention and to add the limitations of the control box being electrically and mechanically coupled to the track, the control box comprising a housing, and the selection devices being mounted to the housing. With respect to the added limitations, Applicants' respectfully submit that support for these limitations can be found throughout the specification and drawings (e.g., Figures 1, 2 and 4). With respect to the clarifying amendments and the added limitations, Applicants' respectfully submit that no new matter has been added.

Claim 32 has been added to better clarify the limitations of Applicants' invention. Applicants' respectfully submit that support for this amendment can be

found throughout the specification, and accordingly, Applicants respectfully submit that no new matter has been added.

III. DOUBLE PATENTING PROVISIONAL REJECTION

Claims 1-16 have been provisionally rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-10, 13, 15 and 31-36 of copending Application No. 10/617,003.

Applicants acknowledge this rejection and submit that upon the resolution of the remaining issues in this matter, Applicant will either abandon the copending application or will file the proper paperwork to effectuate a terminal disclaimer.

IV. REJECTION OF CLAIMS 3, 4 AND 12 UNDER 35 U.S.C. § 112

Claims 3, 4, and 12 stand rejected under 35 U.S.C. § 112, second paragraph. The Office asserts that claims 3 and 4 recite the limitation “said digital messages” and that there is insufficient antecedent basis for this limitation. Similarly, the Office asserts that claim 12 recites the limitation “said command signal” and that there is insufficient antecedent basis for this limitation.

Applicants respectfully submit that the amendments made above are sufficient to overcome this rejection. Accordingly, Applicants respectfully request that this rejection be reconsidered and withdrawn.

V. REJECTION OF CLAIMS 1-26 UNDER 35 U.S.C. § 102(b)

Claims 1-26 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Young et al. (U.S. Patent No. 5,749,547, hereinafter “the ‘547 Patent”). In particular, the Office asserts that the ‘547 Patent discloses:

“a control system for operating a model train comprised of a remote control transmitter 12 having a plurality of pushbutton selection devices for controlling operating features of the train including speed, braking and various sounds. The pushbutton transmitter is connected by radio frequency to a control operative 14, which then sends a DC offset waveform signals through the track 16 and received on the locomotive by a receiver 26. The remote control 12. The remote control is in communication with a microprocessor which uses a

plurality of switches to modulate the waveform of the signal through the track 16, as stated in column 4, lines 50-53. Also stated in column 4, lines 10-25 MOSFET transistors are used to induce the switching controlled by the microprocessor. The signal is also modified using a shift key method as discussed in column 7 lines 4-10. The control operative 14 and transformer 20 monitors the voltage to the track using a voltage sensor and a zero-cross sensor, thereby determining the speed and direction of the train as the signals are received from the remote control 12. The signals are also queued into the control operative 14 and transformer 20 so as to operate in the order the signals were received. The system is further comprised of the feature to switch between various trains to be controlled, as stated in column 3 line 63.”

For at least the following reasons, Applicants respectfully traverse this rejection.

With respect to independent claim 1, Applicants respectfully submit that the cited reference fails to disclose “a plurality of switches to control the form of said control signals” as is positively recited in the present application. This limitation of allows a user to select the form (*i.e.*, conventional DC Offsets or command control Digital Messages) of the control signals sent to the train, so that the apparatus can control the operating features of the train regardless of the operating protocol of the train. Therefore, because the ‘547 Patent fails to disclose each and every element of the claimed invention, Applicants respectfully submit that this rejection is improper. Accordingly, Applicants respectfully request that this rejection be reconsidered and withdrawn.

With respect to dependent claims 2-10, Applicants submit that these claims depend from independent base claim 1 (believed allowable), and therefore, include each and every limitation thereof. Accordingly, for at least the same reasons set forth above with respect to claim 1, Applicants respectfully submit that the rejection of dependent claims 2-10 is likewise improper, and hereby respectfully request that this rejection be reconsidered and withdrawn.

With respect to independent claim 11, Applicants have amended claim 11 to include the limitation of “selecting a form for a control signal”. Applicants respectfully submit that the ‘547 Patent fails to disclose this limitation, and therefore, Applicant submits that because the ‘547 Patent fails to disclose each and every element of the claimed invention, the rejection of independent claim 11 (as amended)

is improper. Accordingly, for at least the reasons set forth above, Applicants respectfully request that this rejection be reconsidered and withdrawn.

With respect to claims 12-16, Applicants respectfully submit that claim 12 has been cancelled, and claims 13-16 depend directly or indirectly upon base claim 11 (believed allowable). Therefore, claims 13-16 include each and every limitation of base claim 11. Accordingly, for at least the reasons set forth above regarding base claim 11, Applicants submit that the rejection of claims 13-16 is likewise improper and respectfully request that it be reconsidered and withdrawn.

With respect to independent claim 17, Applicants have amended claim 17 as set forth above and respectfully submit that the cited reference fails to disclose each affirmatively presented limitation of this claim, as amended. In particular, Applicants submit that the '547 Patent does not disclose a control box that is mechanically and electrically coupled to the train track, and that has a plurality of selection devices wherein each selection device corresponds to and controls the operation of a respective operating feature of the train when the train is operating in the command control mode of operation. Rather, Applicants respectfully submit that the '547 Patent reference appears to disclose a remote control having buttons to control a horn, speed, bell, whistle, etc., while operating in the command control mode of operation. The remote control of the '547 Patent is not electrically and mechanically connected to the track. The base unit in the '547 Patent does not have any selection devices to control the operation of the operating features. Therefore, because the '547 Patent fails to disclose each and every element of claim 17, as amended, Applicants respectfully submit that this rejection has been traversed, and therefore, respectfully request that it be reconsidered and withdrawn.

With respect to dependent claims 18-26, Applicants respectfully submit that these claims depend either directly or indirectly on base claim 17 (believed allowable). Accordingly, each of these dependent claims includes each and every limitation of the base claim. Therefore, for at least the reasons set forth above regarding claim 17, Applicants respectfully submit that the rejection of these claims is improper, and accordingly, respectfully request that the rejection be reconsidered and withdrawn.

VI. ALLOWABLE SUBJECT MATTER

Applicant appreciates the Office's indication that claims 27-31 have been allowed. Accordingly, Applicant respectfully accepts the Office's determination and allowance of these claims.

VII. CONCLUSION

All claims are presently believed to be in condition for allowance. If the Office has any questions regarding this matter, it is invited to contact the undersigned.

Respectfully submitted,

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